countries which are still bound by Convention No. 4, it appears that three *(Cuba, Italy, Spain)* have simply omitted to denounce it since they have already denounced Convention No. 89. One country *(Lithuania)* has enacted internal legislation to denounce the Convention but has not as yet formally registered its denunciation with the International Labour Office, while another country *(Austria)* will in all probability denounce it soon as a result of its obligations arising from its EU membership. As for the remaining 25 ratifications, 21 are from countries which are already parties to one of the revising instruments – either Convention No. 41 (12 ratifications) or Convention No. 89 (nine ratifications) – and as such may not be deemed to have an interest in remaining bound by Convention No. 4.[2] The Committee is, therefore, of the opinion that for all practical purposes Convention No. 4 no longer makes a useful current contribution to attaining the objectives of the Organization, and that ILO member States should be prepared eventually to take appropriate action. This should be "shelved" and, when the time comes, should be included among the Conventions which will be considered for abrogation.

194. With regard to Convention No. 41, the Committee notes that it is currently in force for only 16 countries and that it remains closed to further ratifications following the adoption of the revising Convention No. 89. It should be noted that at the time Convention No. 41 was closed to ratification, only four member States were still bound by its provisions and that the current number of ratifications is only due to the fact that some African countries, upon acceding to independence and becoming Members of the ILO in the late 1950s and early 1960s, committed themselves to continue to apply the Conventions previously ratified by the colonial powers. The Committee further notes that one country *(Estonia)* has announced its intention to denounce this instrument on the first occasion, and that in three other countries *(Argentina, Benin, Suriname)* the Convention has ceased to apply in practice following the adoption of new labour legislation lifting the prohibition of night work for women. The Committee is, therefore, led to the conclusion that, not only is Convention No. 41 poorly ratified and its relevance is diminishing, but also that it would be in the interest of those member States which are still parties to this Convention to ratify instead

[2] In this connection, the Committee wishes to recall its earlier observation on Convention No. 4 concerning the problem of the simultaneous application of two Conventions on the same subject. Noting that the legislation of some Members simultaneously bound by two Conventions concerning night work of women, while in harmony with the more flexible provisions of a revising Convention, did not fully conform with certain clauses contained in Convention No. 4, the Committee commented that "a State Member which is bound simultaneously by two Conventions concerning night work of women is confronted with the following alternatives: (a) to ensure the observance of the obligations arising cumulatively from the two Conventions so that it can avail itself only of those permissive clauses (exceptions) which are authorized both under Convention No. 4 and the revising Convention; or (b) if the Member concerned wishes to avail itself of exceptions authorized under the revising Convention but which go beyond those permitted under Convention No. 4, to denounce the latter"; see ILC, 48th Session, 1964, Report III (Part IV), p. 39.

the revising Convention No. 89 and its Protocol which allow for greater flexibility and are more easily adaptable to changing circumstances and needs.

Protection and equality: The obligation for periodic review

195. There is no doubt that the present trend is to move away from a blanket ban on night work for women in industry and to give the social partners at the national level the responsibility for determining the extent of the permitted exemptions. It is also evident that more attention is now being paid to regulating night work for both men and women. On the basis of the reports reviewed, it is clear that many countries – some of which draw upon the technical assistance of the ILO – are in the process of easing or eliminating legal restrictions on women's employment during the night with the aim of improving women's opportunities in employment and strengthening non-discrimination. The Committee has been pleased to note that this trend is not limited to regions or countries which have already reached a certain stage of social or economic development, but often extends to countries where social attitudes and stereotypical views about the position of women in the labour market persist. While expressing its firm hope that such a trend will continue, the Committee considers it necessary to emphasize that a process of revision should not result in a legal vacuum with night workers being deprived of any regulatory safeguards. Night work is generally considered to have harmful effects for all workers and calls for a regulatory legal framework.

196. As the Committee has been consistently pointing out in individual observations concerning the question of revision of gender-specific legislation, member States are under an obligation to review periodically their protective legislation in light of scientific and technological knowledge. This obligation stems from Article 11(3) of the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women, as later reaffirmed in point 5(b) of the 1985 ILO resolution on equal opportunities and equal treatment for men and women in employment, and similarly endorsed in the legal opinion of the Office regarding the compatibility between the UN Convention on the Elimination of All Forms of Discrimination against Women and certain ILO Conventions on the protection of women.

197. Besides, the obligation for periodic review simply gives expression to an overriding principle, according to which the pursuance of a policy of equality of opportunity and treatment in employment or occupation needs continuous action. As the Committee has underlined in a previous study, "the promotion of equality of opportunity and treatment does not aim at a stable situation that may be attained once and for all, but rather requires a permanent process so that policy may be adjusted to changes in society in order to eliminate

the various forms of distinctions, exclusions and preferences based on grounds laid down in the 1958 instruments". [3]

198. In the process of reviewing special protective legislation with a view to excising all discriminatory constraints, special consideration should be given to the principles contained in the Workers with Family Responsibilities Convention, 1981 (No. 156). As the Committee observed in the 1993 General Survey on this Convention, "because measures to allow men and women to harmonize their work and family commitments are a natural extension of the well-accepted principles on equality, Convention No. 156 and Recommendation No. 165 must be viewed as a necessary part of the overall goal of ensuring that every man and woman should have the opportunity to play a full role in social, economic and public life and also in the family". [4]

The quest for a new balance: The ILO tools

199. The Protocol to Convention No. 89 represents a further step in the process designed for those States that wish to offer the possibility of night employment to women workers and feel that some institutional protection should remain in place to avoid exploitative practices and a sudden worsening of the social conditions of women workers. The Protocol is proposed as a tool for a smooth transition from outright prohibition to free access to night employment. The Night Work Convention, 1990 (No. 171), is part of the same process since it was drafted for the needs of those countries which would be prepared to eliminate all restrictions on night work for women and to conclude that the harmful effects of night work should be regulated, if at all, for men and women alike.

200. It should thus be clear that, in guiding its standard-setting action in matters of women's employment – often depicted as a dilemma of protection *or* equality – the ILO has always opted for protection *and* equality. In adopting the Protocol to Convention No. 89 and Convention No. 171, the ILO has sought to satisfy the differently prioritized needs of its constituents without losing sight of its primary objective, that is fixing socially acceptable conditions for night workers. The two instruments may have much more in common than appears at first glance. Indeed, Convention No. 89, as revised by the 1990 Protocol, remains focused on protection even though in substance it expands considerably the exemption possibilities with regard to the prohibition of night work for women, while Convention No. 171, even though it was devised as a gender-neutral instrument, does provide special protection to women under certain circumstances.

[3] See ILC, 75th Session, 1988, Report III (Part 4B), para. 240, p. 244.

[4] See ILC, 80th Session, 1993, Report III (Part 4B), para. 266, p. 98.

201. The Committee hopes that the present survey will help to clarify both the advisability of regulating night work in general and the acceptability of special protective measures for women having regard to the principles of non-discrimination and equality of treatment between men and women. The Committee concludes that Convention No. 89, as revised by the 1990 Protocol, retains its relevance for some countries as a means of protecting those women who need protection from the harmful effects and risks of night work in certain industries, while acknowledging the need for flexible and consensual solutions to specific problems and for consistency with modern thinking and principles on maternity protection. The Committee believes that a considerable number of governments and employers' and workers' organizations may not clearly understand the full range of possibilities offered by the Protocol with a view to permitting women's night work in certain cases and under specific conditions.

202. In light of the preceding analysis, the Committee considers it necessary that, in addition to encouraging the ratification of Convention No. 171, greater efforts should be made by the Office to help those constituents who are still bound by the provisions of Convention No. 89, and who are not yet ready to ratify Convention No. 171, to realize the advantages of modernizing their legislation in line with the provisions of the Protocol. Bearing in mind that an increasing number of States decide to no longer give effect to, or to denounce, Conventions Nos. 4, 41 or 89, while at the same time Convention No. 171 has not yet attracted many ratifications, the Committee stresses that there is a risk of a complete deregulation of night work through the removal of all protective measures for women and the failure to replace them with a legislation offering appropriate protection to all night workers.

APPENDIX I

TABLE OF REPORTS DUE AND RECEIVED ON THE INSTRUMENTS UNDER CONSIDERATION AND LIST OF RATIFICATIONS/DENUNCIATIONS BY CONVENTION AND COUNTRY (AS AT 8 DECEMBER 2000)

Article 19 of the Constitution of the International Labour Organization provides that Members shall "report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body" on the position of their law and practice in regard to the matters dealt with in unratified Conventions and Recommendations. The obligations of Members as regards Conventions are laid down in paragraph 5(e) of the abovementioned article. Paragraph 6(d) deals with Recommendations, and paragraph 7(a) and (b) deals with the particular obligations of federal States. Article 23 of the Constitution provides that the Director-General shall lay before the next meeting of the Conference a summary of the reports communicated to him by Members in pursuance of article 19, and that each Member shall communicate copies of these reports to the representative organizations of employers and workers.

At its 218th (November 1981) Session, the Governing Body decided to discontinue the publication of summaries of reports on unratified Conventions and on Recommendations and to publish only a list of reports received, on the understanding that the Director-General would make available for consultation at the Conference the originals of all reports received and that copies of reports would be available to members of delegations on request.

At its 267th (November 1996) Session, the Governing Body approved new measures for rationalization and simplification.

From now on, reports received under article 19 of the Constitution appear in simplified form in a table annexed to Report III (Part 1B) of the Committee of Experts on the Application of Conventions and Recommendations.

Requests for consultation or copies of reports may be addressed to the secretariat of the Committee on the Application of Standards.

The reports, which are listed below, refer to the Night Work (Women) Convention, 1919 (No. 4), the Night Work (Women) Convention (Revised), 1934 (No. 41), the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948.

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Afghanistan	1939		1939									1969		
Albania (+)	1932	1964										1997		
Algeria					1962							1969		
Angola (+)	1976				1976							1976		
Antigua and Barbuda (+)												1983		
Argentina (+)	1933	1992	1950 ■						1955	1956		1968	1988	
Armenia (+)												1994		
Australia (+)												1973	1990	
Austria (+)	1924				1950 ○						1969	1973		
Azerbaijan (+)									1992	1992	1992	1992		
Bahamas														
Bahrain (+)					1981							2000		
Bangladesh (+)	1972				1972					1972		1972		
Barbados (+)										1976		1974		
Belarus (+)									1956	1956	1956	1961		
Belgium (+)	1924	1937	1937	1952	1952	1992						1977		1997
Belize (+)					1983						2000	1999	1999	
Benin (+)	1960 ■		1960 ■									1961		
Bolivia					1973					1973	1973	1977	1998	
Bosnia and Herzegovina					1993					1993	1993	1993	1993	
Botswana (+)												1997		
Brazil (+)	1934	1937	1936	1957	1957 ■						1965	1965		
Bulgaria (+)	1922	1960							1949			1960		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Burkina Faso	1960		1960									1962		
Burundi (+)	1963 ■				1963 ■					1971		1993		
Cambodia	1969											1999		
Cameroon	1960	1975			1970					1970		1988		
Canada (+)												1964		
Cape Verde												1979		
Central African Republic	1960		1960									1964		
Chad	1960		1960									1966		
Chile (+)	1931	1976									1994	1971	1994	
China (+)														
Colombia (+)	1933											1969		
Comoros (+)					1978 ■									
Congo	1960	1971	1960	1971	1971							1999		
Costa Rica (+)					1960					1960		1962		
Côte d'Ivoire (+)	1960 ■		1960 ■									1961		
Croatia (+)										1991	1991	1991	1991	
Cuba (+)	1928 ■				1952	1991			1954	1952	1954	1965		
Cyprus (+)					1965	▲	1994			1965		1968		1994
Czech Republic (+)					1993 ■	▲	1993			1993		1993		1996
Democratic Republic of the Congo	1960				1960									
Denmark (+)												1960		
Djibouti (+)					1978									
Dominica (+)												1983		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Dominican Republic					1953 ■	▲			1953	1957		1964		1993
Ecuador (+)											1962	1962		
Egypt (+)			1947	1960	1960							1960		
El Salvador (+)												1995	2000	
Equatorial Guinea											1985			
Eritrea (+)												2000		
Estonia (+)			1935 ■	▲										
Ethiopia (+)												1966	1991	
Fiji														
Finland (+)												1970	1983	
France (+)	1925	1955	1938	1953	1953	1992				1985		1981	1989	
Gabon	1960		1960									1961		
Gambia														
Georgia												1993		
Germany (+)												1961		
Ghana (+)					1959 ■					1961	1986	1961		
Greece (+)	1920	1936	1936	1959	1959	1992				1962	1983	1984	1988	
Grenada														
Guatemala					1952				1952	1952	1989	1960	1994	
Guinea	1959	1968	1959	1966	1966					1966		1960	1995	
Guinea-Bissau	1977				1977							1977		
Guyana												1975		
Haiti (+)										1957		1976		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Honduras												1960		
Hungary (+)	1928	1936	1936	1977							1956	1961		
Iceland												1963	2000	
India	1921		1935	1950	1950					1950		1960		
Indonesia (+)												1999		
Iran, Islamic Republic of												1964		
Iraq			1938	1967	1967							1959		
Ireland	1925	1937	1937	1952	1952	1982						1999		
Israel (+)									1953	1953		1959		
Italy (+)	1923 ■				1952	1992			1952	1952	1971	1963		
Jamaica												1975		
Japan (+)													1995	
Jordan (+)												1963		
Kazakhstan												1999		
Kenya					1965									
Kiribati														
Korea, Republic of (+)												1998		
Kuwait (+)					1961							1966		
Kyrgyzstan									1992	1992	1992	1992		
Lao People's Democratic Republic	1964													
Latvia (+)												1992		
Lebanon (+)					1962					1962		1977		
Lesotho												1998		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Liberia												1959		
Libyan Arab Jamahiriya					1962						1975	1961		
Lithuania (+)	1931 ■								1994	1994		1994		1994
Luxembourg (+)	1928	1982			1958	1982			1958	1958	1969			
Madagascar(+)	1960		1960									1961		
Malawi (+)					1965 ■							1965		
Malaysia (+)														
Mali	1960		1960									1964		
Malta	1988	1991			1965	1991						1968		
Mauritania (+)	1961	1965	1961	1963	1963					1963		1963		
Mauritius (+)														
Mexico (+)										1956		1961		
Moldova, Republic of (+)											1997	1996		
Mongolia											1969	1969		
Morocco (+)	1956		1956									1963		
Mozambique (+)												1977		
Myanmar (+)	1921	1961	1935	1967										
Namibia (+)														
Nepal												1974		
Netherlands (+)	1922	1937	1935	1954	1954	1972				1954	1981	1973	1988	
New Zealand (+)			1938	1950	1950	1981						1983		
Nicaragua (+)	1934 ■											1967		
Niger	1961		1961									1962	1985	

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Nigeria														
Norway (+)										1957		1959	1982	
Occupied territories														
Oman (+)														
Pakistan (+)	1921		1935	1951	1951					1951		1961		
Panama (+)					1970 ○							1966		
Papua New Guinea (+)											2000	2000		
Paraguay (+)					1966 ■				1966	1966		1967		
Peru (+)	1945	1997	1945	1997					1962	1962		1970	1986	
Philippines (+)					1953					1953		1960		
Poland (+)									1947	1968	1976	1961		
Portugal (+)	1932	1993			1964	1992					1985	1959	1985	1995
Qatar (+)												1976		
Romania (+)	1921	1957			1957							1973		
Russian Federation (+)									1956	1956	1956	1961	1998	
Rwanda (+)	1962				1962							1981		
Saint Kitts and Nevis												2000		
Saint Lucia												1983		
Saint Vincent and the Grenadines														
San Marino											1998	1986	1988	
Sao Tome and Principe												1982		
Saudi Arabia (+)					1978					1978		1978		
Senegal (+)	1960		1960	1962	1962							1967		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Seychelles (+)												1999		
Sierra Leone												1966		
Singapore (+)														
Slovakia					1993					1993		1993		
Slovenia (+)					1992					1992	1992	1992	1992	
Solomon Islands														
Somalia												1961		
South Africa (+)	1921	1935	1935	1950	1950 ■	○						1997		
Spain (+)	1932 ■				1958	1992			1971	1971	1965	1967	1985	
Sri Lanka (+)	1951	1954	1950	1966	1966	1982				1959	1993	1998		
Sudan												1970		
Suriname (+)			1976 ■	○										
Swaziland					1981					1981		1981		
Sweden (+)												1962	1982	
Switzerland (+)	1922	1936	1936	1950	1950	1992						1961		
Syrian Arab Republic (+)					1949							1960		
Tajikistan									1993	1993	1993	1993		
Tanzania, United Republic of														
Thailand (+)														
The former Yugoslav Republic of Macedonia					1991					1991	1991	1991	1991	
Togo	1960		1960									1983		
Trinidad and Tobago												1970		
Tunisia (+)	1957	1974			1957		2000			1961		1959		

	C.4 (1919)		C.41 (1934)		C.89 (1948)		P.89 (1990)		Relevant Conventions					
	Rat.	Den.	Rat.	Den.	Rat.	Den.	Rat.	Den.	C.79	C.90	C.103	C.111	C.156	C.171
Turkey (+)												1967		
Turkmenistan												1997		
Uganda														
Ukraine (+)									1956	1956	1956	1961	2000	
United Arab Emirates (+)					1982									
United Kingdom (+)	1921	1937	1937	1947								1999		
United States (+)														
Uruguay (+)	1933	1955			1954	1982			1954	1954	1954	1989	1989	
Uzbekistan											1992	1992		
Venezuela (+)	1933	1944	1944								den.	1971	1984	
Viet Nam (+)												1997		
Yemen (+)												1969	1989	
[Yugoslavia]*	1927	1957			1956					1957	1955	1961	1987	
Zambia					1965 ■	▲					1979	1979		
Zimbabwe (+)												1999		
Total	**59**	**29**	**38**	**22**	**65**	**15**	**3**	**0**	**20**	**50**	**37**	**141**	**29**	**6**

(+) Report received.

■ Convention has ceased to apply.

○ Denunciation under consideration.

▲ Intention to denounce announced.

* This refers to the former Socialist Federal Republic of Yugoslavia (SFRY). The Government of the Federal Republic of Yugoslavia, which joined the International Labour Organization on 24 November 2000, has not yet notified its decision concerning the Conventions previously ratified by the former Socialist Federal Republic of Yugoslavia. As from the date of accession of the Federal Republic of Yugoslavia to ILO membership, the former Socialist Federal Republic of Yugoslavia was deleted from the list of ILO member States.

APPENDIX II

SELECTED NATIONAL LEGISLATION RELATING TO NIGHT WORK OF WOMEN IN INDUSTRY BY COUNTRY

Albania

— Labour Code, Act No. 7961 of 12 July 1995.

Algeria

— Act No. 90-11 of 21 April 1990 respecting labour relations.
— Act No. 83-11 of 2 July 1983 on social insurance.

Angola

— General Labour Act No. 2/2000 of 11 February 2000.

Antigua and Barbuda

— Labour Code No. 14 of 1975.

Argentina

— Employment Law No. 24.013 of 13 November 1991.
— Labour Contract Law No. 20.744 of 13 May 1976.

Australia

— Workplace Relations Act, 1996.
— Occupational Health and Safety Act, 1985.
— Clothing Trades Award, 1999.
— Textile Industry Award, 2000.

Austria

— Agricultural Worker Act of 1984, as amended to 1998.
— Maternity Protection Act of 17 April 1979.
— Federal Act of 1 July 1948 respecting the employment of children and young persons, as last amended by Act of 6 November 1997 (Text No. 126).

— Federal Act of 25 June 1969 regarding women's night work.
— Federal Act BGB1.I No. 5/1998.

Azerbaijan

— Labour Code of 1 February 1999.

Bahrain

— Legislative Decree No. 23 of 16 June 1976 promulgating the Labour Law for the Private Sector, as amended by the Legislative Decree No. 14 of 1993.
— Ministerial Decision No. 18/1976.

Bangladesh

— Factories Act, 1965.
— Employment of Children Act, 1938.
— Maternity Benefit Act, 1939.
— Shops and Establishments Act, 1965.
— Tea Plantations Labour Ordinance, 1962.

Barbados

— Employment (Miscellaneous Provisions) Act of 24 March 1977.
— Employment of Women (Maternity Leave) Act, 1976.

Belarus

— Labour Code of 26 July 1999 (Text No. 432).

Belgium

— Act of 17 February 1997 on night work.
— Labour Act of 16 March 1971, as amended.
— Collective Agreement No. 46 of 23 March 1990 concerning night work.

Belize

— Labour Act, Chapter 234, 1980.

Benin

— Law No. 98-004 of 27 January 1998 to establish a Labour Code.

Bolivia

— Supreme Decree of 26 May 1939 to issue the Labour Code.
— Decree of 23 August 1943 regulating the General Labour Act.

— Act No. 975 of 2 May 1988 on employment and stability of the pregnant worker.
— Act No. 1403 of 18 December 1992 establishing the Minor's Code.
— Act No. 2026 of 27 October 1999 establishing the Code of Children and Adolescents.

Botswana

— Employment Act No. 29 of 1982.
— Employment (Amendment) Act No. 26 of 1992.

Brazil

— Federal Constitution, as amended by the constitutional amendment No. 20 of 15 December 1998.
— Decree No. 5.452 of 1 May 1943 concerning the consolidation of Labour Acts.
— Act No. 8.213/91.
— Transnational Constitutional Provisions Act.

Bulgaria

— Labour Code of 24 March 1986, as amended to 1996.

Burkina Faso

— Act No. 11-92/ADP of 22 December 1992 establishing the Labour Code.
— Decree No. 436/ITLS/HV of 15 July 1953 concerning night work hours.
— Decree No. 539/ITLS/HV of 29 July 1954 concerning the employment of children.
— Decree No. 5254/IGTLS/AOF of 19 July 1954 respecting the employment of women and pregnant women.

Burundi

— Labour Code, Decree No. 1/037 of 7 July 1993.

Cameroon

— Labour Code, Law No. 92/007 of 14 August 1992.

Central African Republic

— Act No. 61-221 of 2 June 1961 establishing the Labour Code.
— Decree No. 839/ITT of 22 November 1953 concerning night work hours.
— Decree No. 3759 of 25 November 1954 respecting the employment of women and pregnant women.
— Decree No. 3157 of 8 October 1951 concerning the employment of children.

Chad

— Act No. 038/PR/96 of 11 December 1996 establishing the Labour Code.

Chile

— Labour Code of 7 January 1994.

— Labour Directorate Circular No. 1671/64 of 18 March 1996.

China

— Labour Act of 5 July 1994.

— Decree of 28 June 1988 of the State Council adopting Regulations Governing Labour Protection for Female Staff Members and Workers.

Colombia

— Labour Code, Decrees Nos. 2663 and 3743 of 1950, adopted by Law No. 141 of 1961.

— Decree No. 13 of 4 January 1967 to incorporate the provisions of Act No. 73 of 13 December 1966.

— Act No. 50 of 28 December 1990 amending the Labour Code.

— Code of Minors, Decree No. 2737/89.

Comoros

— Labour Code, Law No. 84-018/PR of 18 February 1984.

Congo

— Act No. 45-75 of 15 March 1975 establishing the Labour Code.

Costa Rica

— Labour Code of 1943, as amended up to 1996.

— Childhood and Adolescence Law No. 7739 of 6 January 1998.

— Decree No. 26898-MTSS of 30 March 1998.

Côte d'Ivoire

— Act No. 95-15 of 12 January 1995 establishing the Labour Code.

— Decree No. 96-204 of 7 March 1996 regarding night work.

Croatia

— Labour Act of 17 May 1995 (Text No. 758).

Cuba

— Labour Code, Law No. 49 of 28 December 1984.

— Decree No. 101 of 3 March 1982 establishing Regulations on Protection and Hygiene at Work.

— Maternity Law No. 1263 of 14 January 1974, as amended by Law No. 61 of 27 September 1987.

— Protection and Hygiene at Work Law No. 13 of 28 December 1977.

— Resolution No. 10/91 of 16 July 1991 of the State Committee on Labour and Social Security.

Cyprus

— Employment of Women (During the Night) Law of 26 February 1932.

— Employment of Children and Young Persons (Amendment) Law No. 87(I) of 1999.

— Maternity Protection Law No. 100(I) of 1997.

Czech Republic

— Labour Code, Act No. 65/1965, as amended up to 1996.

Democratic Republic of the Congo

— Legislative Ordinance No. 67/310 of 9 August 1967 to establish a Labour Code.

— Order No. 68/13 of 17 May 1968 to lay down conditions of work for women and children.

Denmark

— Order No. 867 of 13 October 1984, as amended by Order No. 1117 of 17 December 1997.

— Order No. 516 of 14 June 1996 respecting work by young persons.

Djibouti

— Labour Code for Overseas Territories, Law No. 52-1322 of 15 December 1952.

Dominica

— Labour Standards (Amendment) Act 1991.

— Employment of Women, Young Persons and Children Act 1991.

Dominican Republic

— Act No. 16-92 of 29 May 1992 promulgating the Labour Code.

Ecuador

— Labour Code of 29 September 1997.

Egypt

— Labour Code promulgated by Act No. 137 of 1981.
— Act No. 43 of 1974 concerning the use of Arab and foreign capital and free zones, as amended by Act No. 32 of 1977.
— Act No. 230 promulgating the Investment Law of 20 July 1989.
— Ministerial Decree No. 23 of 7 February 1982.

El Salvador

— Labour Code of 15 June 1972, as amended by Decree No. 859 of 21 April 1994.

Eritrea

— Labour Law No. 8/1991.

Estonia

— Employment Contracts Act of 15 April 1992.
— Working and Rest Time Act of 15 December 1993.

Ethiopia

— Labour Proclamation No. 42/1993.

Finland

— Employment Contracts Act No. 320 of 1970, as amended up to 1996.
— Hours of Work Act No. 605 of 1996.
— Occupational Safety and Health Act.

France

— Labour Code.

Gabon

— Act No. 3/94 of 21 November 1994 establishing the Labour Code.

Germany

— Federal Act on Maternity Protection of 17 January 1997.
— Youth Employment Protection Act of 12 April 1976.

Ghana

— Labour Decree No. 157 of 10 April 1967 on night work.

Greece

— Presidential Decree No. 176/97 respecting measures to improve the security and health at work of working women during pregnancy, after birth, or during breastfeeding.

— Presidential Decree No. 88 of 7 May 1999 concerning regulation of working hours in conformity with European Council Directive 93/104.

Guatemala

— Decree No. 1441 of 5 May 1961 to promulgate the consolidated text of the Labour Code, as amended up to 1995.

— Decree No. 64-92 of 2 December 1992 regarding the reform of the Labour Code.

Guinea

— Ordinance No. 003/PRG/SGG/88 of 28 January 1988 issuing the Labour Code.

— Decree No. 2791/MTASE/DNTLS/96 of 22 April 1996 respecting child labour.

— Decree No. 1392/MASE/DNTLS/90 of 15 May 1990 respecting the employment of women and pregnant women.

Guinea-Bissau

— General Labour Act No. 2/86 of 5 April 1986.

Haiti

— Labour Code of 12 September 1961, as revised by Decree of 24 February 1984.

Hungary

— Act No. 22 of 3 March 1992 on the Labour Code.

India

— Factories Act No. 53 of 23 September 1948, as amended.

— Child Labour (Prohibition and Regulation) Act No. 61 of 23 December 1986.

— Maternity Benefit Act No. 53 of 12 December 1961.

Indonesia

— Law on Manpower Affairs No. 25 of 3 October 1997.

— Ministerial Regulation No. 04/MEN/1989 on procedures to employ women workers at night.

— Ordinance of 17 December 1925 on measures limiting child labour and night work for women.

— Ministerial Regulation No. 03/MEN/1996 on prohibition of termination of employment for women due to be married, pregnant or give birth.

— Act No. 1 of 6 January 1951.

Iraq

— Act No. 71 of 27 July 1987 promulgating the Labour Code.

Israel

— Employment of Women Law No. 5714-1954.

— Youth Labour Law No. 5713-1953.

Italy

— Act No. 25 of 5 February 1999 on Provisions for the fulfilment of obligations deriving from Italy's membership in the European Union – Community Law 1998.

— Legislative Decree No. 532 of 26 November 1999 on Provisions relating to night work.

Japan

— Labour Standards Law No. 49 of 7 April 1947, as amended through law No. 107 of 9 June 1995.

— Law No. 76 of 15 May 1991 concerning the welfare of workers who take care of children or other family members including childcare and family care leave.

Jordan

— Labour Code, Law No. 8 of 1996.

— Ministerial Order No. 4201 of 30 April 1997 concerning jobs and hours in which the employment of women is prohibited.

Kenya

— Employment Act No. 2 of 15 April 1976.

Korea, Republic of

— Labour Standards Act No. 5309 of 13 March 1997.

Kuwait

— Act No. 38 of 1964 regarding employment in the private sector.

— Ministerial Order No. 28 of 1976 on the definition of the term night.

— Ministerial Order No. 5 of 1985.

Latvia

— Labour Code, as amended to 25 October 1994.

Lebanon

— Labour Code, Law of 23 September 1946, as amended by Law No. 536 of 24 July 1996.

Libyan Arab Jamahiriya

— Labour Code, Act No. 58-2970 of 1 May 1970.

— Ministerial Order of 18 October 1972 defining the circumstances in which females may be employed on night work between 8 p.m. and 7 a.m.

Lithuania

— Code of Labour Laws No. VIII-526 of 1 June 1972.

— Act No. I-266 of 7 October 1993 on Labour Protection (Occupational Safety), as amended to 3 November 1994.

Luxembourg

— Act of 3 July 1975 on maternity protection, as amended by Act of 7 July 1998.

— Act of 28 October 1969 respecting the protection of children and young workers.

Madagascar

— Act No. 94-029 of 25 August 1995 establishing the Labour Code.

— Decree No. 72-226 of 6 July 1972 regulating overtime and night work.

Malawi

— Employment of Women, Young Persons and Children Act No. 22 of 1939 (Cap. 55:04).

— Employment Act No. 6 of 2000.

Malaysia

— Children and Young Persons (Employment) Act No. 40 of 28 April 1966, as amended to 1988.

— Employment Act No. 265 of 1955, as amended to 1981.

Mali

— Act No. 92-020 of 23 September 1992 establishing the Labour Code.

— Decree No. 96-178/P-RM of 13 June 1996 to make regulations under the Labour Code.

Mauritania

— Act No. 63-023 of 23 January 1963 to establish a Labour Code.

— Order No. 5254/IGTLS/AOF of 19 July 1954 respecting the employment of women and pregnant women.

Mauritius

— Labour Act No. 50 of 24 December 1975.

— Export Processing Zones Act, 1970.

— Industrial Expansion Act No. 11 of 28 April 1993.

Mexico

— Political Constitution of the United Mexican States.

— Federal Labour Act, as amended up to 1 October 1995.

— Social Security Act of 19 December 1995.

Moldova, Republic of

— Labour Code, Law of 25 May 1973, as amended up to 23 July 1998.

Morocco

— Decree of 2 July 1947 to regulate employment.

— Vizirial Order of 8 March 1948 to specify the undertakings which are exempted from the provisions prohibiting the employment of women and children at night.

Mozambique

— Act No. 8/98 of 20 July 1998.

Namibia

— Labour Act of 13 March 1992.

Netherlands

— Working Time Act of 23 November 1995.

New Zealand

— Parental Leave and Employment Protection Act No. 129 of 10 July 1987.

Nicaragua

— Labour Code, Act No. 185 of 30 October 1996.

— Childhood and Adolescence Act No. 287 of 27 May 1998.

Niger

— Ordinance No. 96-039 of 29 June 1996 establishing the Labour Code.

— Decree No. 67-126/MFP/T of 7 September 1967 on Labour Regulations.

Norway

— Act No. 4 of 4 February 1977 respecting Worker's Protection and the Working Environment, as subsequently amended, last by Act No. 19 of 28 February 1997.

— Ordinance No. 554 of 30 April 1998 respecting work of children and of youth.

Oman

— Labour Law enacted by the Sultani Decree No. 34/73.

— Ministerial Decision No. 19/74.

Pakistan

— Factories Act, 1934, as amended to 1987.

— Mines Act, 1923.

— Employment of Children Act, 1991.

— West Pakistan Maternity Benefit Ordinance, 1958.

Panama

— Labour Code adopted by Decree No. 252 of 30 December 1971, as amended to 1995.

Papua New Guinea

— Employment Act No. 54 of 21 August 1978.

Paraguay

— Labour Code, Act No. 213 of 29 June 1993, as amended by Act No. 496 of 22 August 1995.

Peru

— Constitution of 29 December 1993.

— Synthesis of Labour Legislation as approved by Ministerial Resolution 58-97-TR of 7 July 1997.

— Code on Children and Adolescence, Law No. 27.337 of 21 July 2000.

— Law No. 26.664 of 25 June 1996.

— Legislative Decree No. 728 of 21 March 1997.

Philippines

— Labour Code, Presidential Decree No. 442 of 1 May 1974, as amended.
— Social Security Act No. 8282 of 1997.

Poland

— Labour Code, Act of 26 June 1974, as amended up to 1996.

Portugal

— Act No. 4/84 of 5 April 1984 concerning maternity and paternity protection.
— Act No. 58/99 of 30 June 1999.
— Act No. 142/99 of 31 August 1999.
— Legislative Decree No. 409/71 of 27 September 1971.

Qatar

— Labour Law No. 3 of 1962.

Romania

— Labour Code, Law No. 10 of 23 November 1972.

Russian Federation

— Labour Code of 9 December 1971, as amended up to 30 April 1999.

Rwanda

— Labour Code, Act of 28 February 1967.
— Decree of 14 March 1957 respecting working hours, weekly rests and public holidays.

Saudi Arabia

— Royal Decree No. M/21 of 15 November 1969 establishing a Labour Code.

Senegal

— Labour Code, Law No. 97-17 of 1 December 1997.
— Decree No. 70-182 of 20 February 1970 concerning night work hours.
— Order No. 3724/IT of 22 June 1954 regarding child labour.
— Order No. 5254/IGTLS/AOF of 19 July 1954 regarding conditions of work of women and pregnant women.

Seychelles

— Conditions of Employment Regulations of 24 April 1991 (S.I. 34).

— Conditions of Employment (Amendment) Regulations of 27 June 1991 (S.I. 45).

— International Trade Zone (Conditions of Employment) Order of 31 January 1997 (S.I. 14).

Singapore

— Employment Act (Chapter 91), as amended to 30 April 1996.

— Employment (Female Workmen) Regulations 1988, No. S101 of 26 April 1988.

Slovakia

— Act No. 451/1992 providing for the Labour Code.

Slovenia

— Act on the Fundamental Rights ensuing from Labour Relations, Text No. 921 of 28 September 1989.

— Labour Relations Act of 29 March 1990, as amended by Act of 30 January 1991.

— General Collective Agreement for Commercial Activities (*Official Gazette* No. 40-2205/1997).

South Africa

— Basic Conditions of Employment Act No. 75 of 26 November 1997.

— Labour Relations Act No. 66 of 29 November 1995.

— Mine Health and Safety Act No. 29 of 30 May 1996.

Spain

— Constitution of 27 December 1978.

— Royal Legislative Decree No. 1/95 of 24 March 1995 regarding the Workers Statute Law.

— Law No. 39/99 of 5 November 1999 regarding the reconciliation of work and family life.

— Prevention of Labour Risks Law No. 31/95 of 8 November 1995.

Sri Lanka

— Employment of Women, Young Persons and Children Act No. 47 of 1956.

— Employment of Women, Young Persons and Children (Amendment) Act No. 32 of 1984.

— Maternity Benefits (Amendment) Act No. 43 of 1985.

— Maternity Benefits Ordinance (Chapter 140) of 28 July 1941.

Suriname

— Labour Act of 1963, as amended by Decree E-41 of 12 September 1983.

Swaziland

— Employment Act No. 5 of 26 September 1980.

Sweden

— Hours of Work Act (1982:673) of June 1982.

Switzerland

— Federal Labour Act of 13 March 1964, as amended through Federal Act of 20 March 1998.

— *Code des Obligations*, Federal Act of 30 March 1911 supplementing the Swiss Civil Code.

— Order No. 1 of 10 May 2000 relative to Federal Labour Act.

Syrian Arab Republic

— Law No. 91 of 5 April 1959 establishing the Labour Code.

— Order No. 1663 of 28 December 1985 regarding employment of women in production.

— Order No. 666 of 20 July 1976 to prescribe the cases and types of work in which women may be employed between 8 p.m. and 7 a.m.

Thailand

— Labour Protection Act (B.E. 2541) of 12 February 1998.

Togo

— Ordinance No. 16 of 8 May 1974 establishing the Labour Code.

— Decree No. 884-55/ITLS of 28 October 1955 respecting the employment of women and children.

Tunisia

— Labour Code, Act No. 66-27 of 30 April 1966, as last amended by Act No. 96-62 of 15 July 1996.

Turkey

— Labour Act No. 1475 of 25 August 1971.

— Decree No. 7/6909 of 27 July 1973 to approve Regulations respecting the Conditions of Work for Women Working Night Shifts on Industrial Work.

Ukraine

— Labour Code of 11 April 1994.

— Law No. 3694-12 of 15 December 1993.

— Regulation No. 381 of 27 March 1996 on the programme of disengagement of women to productions linked with arduous work and dangerous conditions, as well as limitation of their work at night for 1996-98 (Text No. 277).

United Arab Emirates

— Federal Law No. 8 of 1980 regarding regulation of labour relations.

— Ministerial Order No. 46/1 of 1980, defining the types of work in which women may be employed between 10 p.m. and 7 a.m.

— Ministerial Order No. 47/1 of 1980, concerning the exemption of certain establishments from the Law regulating the employment of young persons and women.

United Kingdom

— Employment Rights Act 1996.

— Management of Health and Safety at Work (Amendment) Regulations 1999.

— Maternity and Parental Leave Regulations 1999.

Anguilla

— Fair Labour Standards Ordinance, 1988.

Falkland Islands (Malvinas)

— Employment of Women, Young Persons and Children Ordinance, 1967.

Gibraltar

— Employment Ordinance.

— Employment (Maternity and Health and Safety) Regulations, 1996.

Guernsey

— Act relative to the Employment of Women, Young Persons and Children, 1926.

Isle of Man

— Employment Act, 1991.

United States

— Code of Federal Regulations.

Uruguay

- Decree of 1 June 1954.
- Decree No. 37/997 of 14 February 1997.
- Law No. 11.577 of 14 October 1950.
- Law No. 15.084 of 28 November 1980.

Venezuela

- Labour Act of 27 November 1990, as modified by Act of 19 June 1997.
- Decree No. 1563 of 31 December 1973 on Labour Act Regulations.
- Decree No. 3235 of 20 January 1999.

Viet Nam

- Labour Code of 23 June 1994.

Yemen

- Labour Code, Act No. 5 of 1995, as amended by Act No. 25 of 1997.

Zambia

- Employment of Women, Young Persons and Children Act (Cap. 505) of 13 April 1933, as amended, last by Act No. 4 of 6 September 1991.
- Minimum Wages and Conditions of Employment (General) Order of 23 October 1997 (S.I. No. 119).

Zimbabwe

- Labour Relations Act No. 12 of 1992 (Chapter 28:01).

APPENDIX III

MAIN PROVISIONS OF THE INSTRUMENTS ON
NIGHT WORK OF WOMEN IN INDUSTRY

Convention No. 4

Convention concerning Employment of Women during the Night

The General Conference of the International Labour Organisation,

Having been convened at Washington by the Government of the United States of America on the 29th day of October 1919, and

Having decided upon the adoption of certain proposals with regard to women's employment; during the night, which is part of the third item in the agenda for the Washington meeting of the Conference, and

Having determined that these proposals shall take the form of an international Convention,

adopts the following Convention, which may be cited as the Night Work (Women) Convention, 1919, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly –

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind;

(c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2

1. For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. In those countries where no government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

Article 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4

Article 3 shall not apply –

(a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;

(b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

Article 5

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

Article 6

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

Article 7

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above Articles, provided that compensatory rest is accorded during the day.

[...]

Convention No. 41

Convention concerning Employment of Women during the Night (Revised 1934)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighteenth Session on 4 June 1934, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Convention concerning employment of women during the night adopted by the Conference at its First Session, which is the seventh item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention,

adopts this nineteenth day of June of the year one thousand nine hundred and thirty-four the following Convention, which may be cited as the Night Work (Women) Convention (Revised), 1934:

Article 1

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly –

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity or motive power of any kind;

(c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, waterwork or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.

2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2

1. For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

2. Provided that, where there are exceptional circumstances affecting the workers employed in a particular industry or area, the competent authority may, after consultation with the employers' and workers' organisations concerned, decide that in the case of women employed in that industry or area, the interval between eleven o'clock

in the evening and six o'clock in the morning may be substituted for the interval between ten o'clock in the evening and five o'clock in the morning.

3. In those countries where no government regulation as yet applies to the employment of women in industrial undertakings during the night, the term "night" may provisionally, and for a maximum period of three years, be declared by the Government to signify a period of only ten hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

Article 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4

Article 3 shall not apply –

(a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;

(b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

Article 5

In India and Siam, the application of Article 3 of this Convention may be suspended by the Government in respect to any industrial undertaking, except factories as defined by the national law. Notice of every such suspension shall be filed with the International Labour Office.

Article 6

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

Article 7

In countries where the climate renders work by day particularly trying to the health, the night period may be shorter than prescribed in the above Articles, provided that compensatory rest is accorded during the day.

Article 8

This Convention does not apply to women holding responsible positions of management who are not ordinarily engaged in manual work.

[...]

Convention No. 89

Convention concerning Night Work of Women Employed in Industry (Revised 1948)

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Night Work (Women) Convention, 1919, adopted by the Conference at its First Session, and the Night Work (Women) Convention (Revised), 1934, adopted by the Conference at its Eighteenth Session, which is the ninth item on the agenda of the session, and

Considering that these proposals must take the form of an international Convention,

adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Night Work (Women) Convention (Revised), 1948:

PART I. GENERAL PROVISIONS

Article 1

1. For the purpose of this Convention, the term "industrial undertaking" includes particularly –

(a) mines, quarries, and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.

2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

Article 2

For the purpose of this Convention the term "night" signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but

shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Article 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4

Article 3 shall not apply –

(a) in case of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;

(b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration when such night work is necessary to preserve the said materials from certain loss.

Article 5

1. The prohibition of night work for women may be suspended by the government, after consultation with the employers' and workers' organisations concerned, when in case of serious emergency the national interest demands it.

2. Such suspension shall be notified by the government concerned to the Director-General of the International Labour Office in its annual report on the application of the Convention.

Article 6

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

Article 7

In countries where the climate renders work by day particularly trying, the night period may be shorter than that prescribed in the above Articles if compensatory rest is accorded during the day.

Article 8

This Convention does not apply to –

(a) women holding responsible positions of a managerial or technical character; and

(b) women employed in health and welfare services who are not ordinarily engaged in manual work.

[...]

Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 77th Session on 6 June 1990, and

Having decided upon the adoption of certain proposals with regard to night work, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Night Work (Women) Convention (Revised), 1948 (hereinafter referred to as "the Convention"),

adopts this twenty-sixth day of June of the year one thousand nine hundred and ninety the following Protocol, which may be cited as the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948:

Article 1

1. (1) National laws or regulations, adopted after consulting the most representative organisations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority:

(a) in a specific branch of activity or occupation, provided that the organisations representative of the employers and the workers concerned have concluded an agreement or have given their agreement;

(b) in one or more specific establishments not covered by a decision taken pursuant to clause (a) above, provided that:

  (i) an agreement has been concluded in the establishment or enterprise concerned between the employer and the workers' representatives concerned; and

  (ii) the organisations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;

(c) in a specific establishment not covered by a decision taken pursuant to clause (a) above, and where no agreement has been reached in accordance with clause (b)(i) above, provided that:

  (i) the workers' representatives in the establishment or enterprise as well as the organisations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organisations of employers and workers have been consulted;

  (ii) the competent authority has satisfied itself that adequate safeguards exist in the establishment as regards occupational safety and health, social services and equality of opportunity and treatment for women workers; and

(iii) the decision of the competent authority shall apply for a specified period of time, which may be renewed by means of the procedure under sub-clauses (i) and (ii) above.

(2) For the purposes of this paragraph the term "workers' representatives" means persons who are recognised as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

2. The laws or regulations referred to in paragraph 1 shall determine the circumstances in which such variations and exemptions may be permitted and the conditions to which they shall be subject.

Article 2

1. It shall be prohibited to apply the variations and exemptions permitted pursuant to Article 1 above to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth. National laws or regulations may allow for the lifting of this prohibition at the express request of the woman worker concerned on condition that neither her health nor that of her child will be endangered.

2. The prohibition provided for in paragraph 1 of this Article shall also apply to additional periods in respect of which a medical certificate is produced stating that this is necessary for the health of the mother or child:

(a) during pregnancy; or

(b) during a specified time prolonging the period after childbirth fixed pursuant to paragraph 1 above.

3. During the periods referred to in paragraphs 1 and 2 of this Article:

(a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;

(b) the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured through assignment to day work, extended maternity leave, social security benefits or any other appropriate measure, or through a combination of these measures.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall not have the effect of reducing the protection and benefits connected with maternity leave.

Article 3

Information on the variations and exemptions introduced pursuant to this Protocol shall be included in the reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation.

Article 4

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification of the Protocol to the Director-General of the International Labour Office for registration. Such ratification shall take effect 12 months after the date on which it has been registered by

the Director-General. Thereafter the Convention shall be binding on the Member concerned with the addition of Articles 1 to 3 of this Protocol.

[...]

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